

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Samuel Weiss)	Art Unit: 1632
)	
Application No.: 10/523,253)	Examiner: Thaian N. Ton
)	
Filing Date: January 26, 2005)	Confirmation No.: 8661
)	
Patent No.: 7,704,737)	
)	
Issue Date: April 27, 2010)	
)	
For: OLIGODENDROCYTE PRODUCTION)	
FROM MULTIPOTENT NEURAL STEM)	
CELLS)	
)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

McKeon, Meunier, Carlin & Curfman, LLC
Customer No. 96039

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)

Applicant hereby petitions for reconsideration of the Patent Term Adjustment (PTA) accorded the above-referenced patent. Attached herewith is a copy of the Issue Notification including a Determination of Patent Term Adjustment under 35 U.S.C. 154(b), mailed April 7, 2010, for the above-referenced patent. The notification, as well as the face of the patent, states that the Patent Term Adjustment at issuance is 416 days. Reconsideration of the Patent Term Adjustment to increase PTO Delay from 812 days to 961 days, increase Applicant Delay from 396 days to 397 days, and to increase Total PTA from 416 to 564 days, is respectfully requested.

REVIEW OF PATENT TERM ADJUSTMENT CALCULATION

A review of the Patent Term Adjustment History in the PAIR system shows that the United States Patent and Trademark Office (PTO) calculated the Patent Term Adjustment (PTA) as follows:

- 1) The PTO mailed a delayed 14-month first action Restriction Requirement on October 31, 2006. Applicant agrees with the calculated PTO Delay of 219 days.
- 2) Applicant electronically submitted a supplemental response in the form of an Information Disclosure Statement on October 1, 2007 which was received by the PTO on the same day. This Information Disclosure Statement was supplemental to the response previously filed on August 13, 2007. Applicant agrees with the calculated Applicant Delay of 49 days.
- 3) Applicant electronically submitted a Response after Final Rejection on March 21, 2008 which was received by the PTO on the same day (copy of Electronic Acknowledgement Receipt attached). The Final Rejection had a mailing date of October 15, 2007. The PTO used an incorrect receipt date of March 20, 2008 in calculating the Applicant Delay of 65 days. Applicant respectfully disagrees with the erroneously-calculated Applicant Delay of 65 days and hereby requests that it be increased to an Applicant Delay of 66 days.
- 4) Applicant electronically submitted a Response after Non-Final Action on September 17, 2008 which was received by the PTO on the same day. This was in response to a Non-Final Action mailed on May 2, 2008. Applicant agrees with the calculated Applicant Delay of 46 days.
- 5) Applicant electronically submitted a series of supplemental responses in the form of Information Disclosure Statements, the latest of which was submitted on March 27, 2009 and received by the PTO on the same day. These Information Disclosure Statements were supplemental to the response previously filed on September 17, 2008. Applicant agrees with the calculated Applicant Delay of 191 days.
- 6) The PTO mailed a Final Rejection on May 28, 2009 which, under 37 CFR § 1.702(a)(2) should have been mailed by January 17, 2009. This constitutes PTO Delay of 131 days, which the PTO did not factor into its

calculation of PTA due at issuance, despite the fact that this was correctly factored into the PTO's calculation of PTA at allowance. Applicant respectfully disagrees with the calculated PTO Delay of 0 days and hereby requests that it be increased to a PTO Delay of 131 days.

- 7) Applicant electronically submitted a Request for Continued Examination (RCE) on September 28, 2009 which was received by the PTO on the same day. This was in response to a Final Action mailed on May 28, 2009. Applicant agrees with the calculated Applicant Delay of 31 days.
- 8) Applicant electronically submitted a supplemental response in the form of an Information Disclosure Statement on October 12, 2009 which was received by the PTO on the same day. This Information Disclosure Statement was supplemental to the RCE filed on September 28, 2009. Applicant agrees with the calculated Applicant Delay of 14 days.
- 9) The application was filed on January 26, 2005 and the patent issued on April 27, 2010, more than three years later. The earliest Request for Continued Examination was filed on September 28, 2009. PTO Delay of 593 days was calculated for issuance of the patent after three years from filing, as limited by the filing of the earliest Request for Continued Examination under 37 C.F.R. §§ 1.702(b) and 1.703(b). Applicants respectfully disagrees with the calculated PTO Delay of 593 days and hereby requests that it be increased to a PTO Delay of 611 days.

REMARKS

In consideration of the events described above, Applicant believes the PTA calculation of 416 days is incorrect.

Therefore, Applicant respectfully requests the addition of 1 day of Applicant Delay, increasing Applicant Delay from 396 days to 397 days; as well as the addition of 149 days of PTO Delay, increasing PTO Delay from 812 days to 961 days; thereby increasing the Total PTA from 416 to 564 days.

A copy of each of the following documents is provided herein:

- 1) Issue Notification dated April 7, 2010;
- 2) Electronic Acknowledgement Receipt dated March 21, 2008.

The required fee of \$200 is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Electronic Funds Transfer. Please apply any other charges or credits to Deposit Account No. 50-5226.

Respectfully submitted,
McKeon, Meunier, Carlin & Curfman, LLC

Dated: June 22, 2010

/ Miles E. Hall /
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APPLICATION NO.	ISSUE DATE	PATENT NO.	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,253	04/27/2010	7704737	16601-021US1	8661

26181 7590 04/07/2010
FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

ISSUE NOTIFICATION

The projected patent number and issue date are specified above.

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment is 416 day(s). Any patent to issue from the above-identified application will include an indication of the adjustment on the front page.

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Application Assistance Unit (AAU) of the Office of Data Management (ODM) at (571)-272-4200.

APPLICANT(s) (Please see PAIR WEB site <http://pair.uspto.gov> for additional applicants):

Samuel Weiss, Alberta, CANADA;

Electronic Acknowledgement Receipt

EFS ID:	3035349
Application Number:	10523253
International Application Number:	
Confirmation Number:	8661
Title of Invention:	Oligodendrocyte production from multipotent neural stem cells
First Named Inventor/Applicant Name:	Samuel Weiss
Customer Number:	26181
Filer:	Michael Robert Asam/Kathy Bell
Filer Authorized By:	Michael Robert Asam
Attorney Docket Number:	16601-021US1
Receipt Date:	21-MAR-2008
Filing Date:	26-JAN-2005
Time Stamp:	14:24:27
Application Type:	U.S. National Stage under 35 USC 371

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$525
RAM confirmation Number	8200
Deposit Account	061050
Authorized User	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
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1		16601_021us1.pdf	182517 6b4035e831db1d24d7cf8cc9173e128275476fbc	yes	6
	Multipart Description/PDF files in .zip description				
	Document Description		Start	End	
	Amendment After Final		1	1	
	Claims		2	2	
	Applicant Arguments/Remarks Made in an Amendment		3	5	
	Extension of Time		6	6	
Warnings:					
Information:					
2	Fee Worksheet (PTO-06)	fee-info.pdf	8179 5c41831974be834ea004ab558c9a71afc aa974ab	no	2
Warnings:					
Information:					
Total Files Size (in bytes):			190696		
<p>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</p> <p><u>New Applications Under 35 U.S.C. 111</u> If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</p> <p><u>National Stage of an International Application under 35 U.S.C. 371</u> If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</p> <p><u>New International Application Filed with the USPTO as a Receiving Office</u> If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</p>					